



JON M. HUNTSMAN, JR.
Governor

GARY R. HERBERT
Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil Gas and Mining

JOHN R. BAZA
Division Director

June 29, 2007

CERTIFIED RETURN RECEIPT
7005 0270 0000 4801 5167

Cliff Read
Rock & Stone LLC
P.O. Box 1947
Park City, Utah 84060

Subject: Termination and Reassessment for Cessation Order #MC2007-03-02-01, Termination and Assessment of Penalty for Cessation Order #MC 2007-03-04, Rock-It Stone, Strawberry River Quarry (S/013/008), Duchesne County, Utah

Dear Mr. Read:

The proposed civil penalty assessment for cessation order #MC2007-03-02-01 was sent to Shannon Peatross on May 10, 2007. At that time the abatement had not been completed and some of the facts surrounding the violation were not available. In accordance with rule R647-7-105, the penalty is to be reassessed when it is necessary to consider facts, which were not reasonably available on the date of the issuance of the proposed assessment. Now that the Cessation Order has been terminated (termination notice enclosed) the assessment can be completed.

The enclosed worksheet specifically outlines how the violation was assessed. You should note that good faith has now been considered and no points were awarded due to the extended abatement period.

Under R647-7-106, there are two informal appeal options available to you:

1. If you wish to informally appeal the fact of the Cessation Order, you should file a written request for an Informal Conference within thirty (30) days of receipt of this letter.



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Cliff Read
S013008
June 29, 2007

This conference will be conducted by the Division Director, Associate Director or assigned conference officer. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty. 2. If you wish to review the proposed penalty assessment, you should file a written request for an Assessment Conference within thirty (30) days of receipt of this letter. If you are also requesting a review of the fact of violation, as noted in paragraph one, the assessment conference will be scheduled immediately following that review.

You will also find enclosed a copy of the Termination Notice for Cessation Order MC2007-03-04. This Cessation Order (FTACO) was written for failure to abate Cessation Order #MC2007-03-02 and carries with it a mandatory \$750 per day fine for each day during which the failure continues. This FTACO was issued on June 26th and terminated effective June 27th, which equates to one day of penalty and amounts to a fine of \$750.

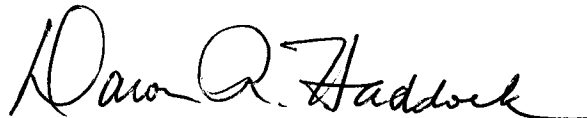
Following is a summary of the assessment of the penalty for both of the cessation orders:

MC-07-03-02 Violation 1 of 1	\$2,090
MC-07-03-04 FTACO	<u>\$750</u>
TOTAL	\$2,840

If a timely request for review is not made, the fact of the cessation order will stand, the proposed penalty(ies) will become final, and the penalty(ies) will be due and payable within thirty (30) days of the reassessment. Please remit payment to the Division, mail c/o Vickie Southwick.

Thank you for your help in completing these important regulatory requirements. Please call me at (801) 538-5325 if you have any questions.

Sincerely,



Daron R. Haddock
Assessment Officer

Enclosure: Worksheets

cc: Vickie Southwick, Exec. Sec.
Vicki Bailey, Accounting

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WORKSHEET FOR ASSESSMENT OF PENALTIES
DIVISION OF OIL, GAS & MINING
Minerals Regulatory Program

COMPANY / MINE Rock & Stone LLC/ Strawberry River PERMIT M0130008
NOV / CO # MC-07-03-02 VIOLATION 1 of 1

REASSESSMENT DATE June 29, 2007

ASSESSMENT OFFICER Daron R. Haddock

I. HISTORY (Max. 25 pts.) (R647-7-103.2.11)

- A. Are there previous violations, which are not pending or vacated, which fall within three (3) years of today's date?

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS (1pt for NOV 5pts for CO)
<u>MC-04-03-01 (1 of 2)</u>	<u>9/10/2004</u>	<u>5</u>
<u>MC-04-03-01 (2 of 2)</u>	<u>9/10/2004</u>	<u>5</u>

TOTAL HISTORY POINTS 10

II. SERIOUSNESS (Max 45pts) (R647-7-103.2.12)

NOTE: For assignment of points in Parts II and III, the following apply:

1. Based on facts supplied by the inspector, the Assessment Officer will determine within each category where the violation falls.
2. Beginning at the mid-point of the category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an EVENT (A) or Administrative (B) violation? Event
(assign points according to A or B)

A. EVENT VIOLATION (Max 45 pts.)

1. What is the event which the violated standard was designed to prevent?

2. What is the probability of the occurrence of the event which a violated standard was designed to prevent?

<u>PROBABILITY</u>	<u>RANGE</u>
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 9

PROVIDE AN EXPLANATION OF POINTS:

*** *An Operator is required to pay permit fees and post a reclamation surety/bond with the Division of Oil Gas and Mining prior to conducting mining operations. While the Operator had a small mine permit, a bond had not been posted for reclamation of this site and the permit fee had not been paid for this year. The operator had been notified numerous times of the requirement to post a bond (the last time by certified mail) but had failed to comply within the timeframe allotted. The inspector indicated that there was no particular harm to the environment or threat to the public as a result of the violation, however, if mining were allowed to continue without the appropriate approvals or adequate surety, damage would occur although it would be unlikely. I have assigned points in the upper part of the "Unlikely" range.*

3. What is the extent of actual or potential damage? RANGE 0-25

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 5

PROVIDE AN EXPLANATION OF POINTS:

*** *The inspector stated that it is unlikely that any damage would occur at this site as a result of the violation. Because mining has occurred without paying the permit fee or posting the appropriate surety, there is some potential for damage to occur. Because there is only potential for damage, I am assessing points in the lower end of the range.*

B. ADMINISTRATIVE VIOLATIONS (Max 25pts)

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement? _____
RANGE 0-25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS _____

PROVIDE AN EXPLANATION OF POINTS:

TOTAL SERIOUSNESS POINTS (A or B) 14

III. DEGREE OF FAULT (Max 30 pts.) (R647-7-103.2.13)

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO--NO NEGLIGENCE; or, was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care, the failure to abate any violation due to the same or was economic gain realized by the permittee? IF SO--GREATER DEGREE OF FAULT THAN NEGLIGENCE.

No Negligence	0
Negligence	1-15
Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Negligence

ASSIGN NEGLIGENCE POINTS 15

PROVIDE AN EXPLANATION OF POINTS:

*** *The inspector indicated that the operator had been warned in several letters of the requirement to post bond. The Operator had also been notified of the requirement to pay permit fees, but failed to do so. This is especially disconcerting because a violation had been issued in 2004 for failing to pay permit fees. This disregard for permitting requirements indicates indifference to the rules or lack of diligence in complying with the rules and Division instruction. A prudent operator would understand the need to provide a surety and pay the permit fees in a timely manner. The Operator was negligent in this regard almost to the point of a greater degree of Fault. I am assigning points at the top of the negligence range.*

GOOD FAITH (Max 20 pts.) (R467-7-103.2.14)

(Either A or B) (Does not apply to violations requiring no abatement measures)

- A. Did the operator have onsite, the resources necessary to achieve compliance of the violated standard within the permit area?
IF SO--EASY ABATEMENT

Easy Abatement Situation

X	Immediate Compliance	-11 to -20*
	(Immediately following the issuance of the NOV)	
X	Rapid Compliance	-1 to -10
	(Permittee used diligence to abate the violation)	
X	Normal Compliance	0
	(Operator complied within the abatement period required)	

(Operator complied with condition and/or terms of approved Mining and Reclamation Plan)

*Assign in upper or lower half of range depending on abatement occurring the 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance, or does the situation require the submission of plans prior to physical activity to achieve compliance?

IF SO--DIFFICULT ABATEMENT

Difficult Abatement Situation

- | | | |
|---|---|-------------|
| X | Rapid Compliance | -11 to -20* |
| | (Permittee used diligence to abate the violation) | |
| X | Normal Compliance | -1 to -10* |
| | (Operator complied within the abatement period required) | |
| X | Extended Compliance | 0 |
| | (Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard of the plan submitted for abatement was incomplete) | |
| | (Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan) | |

EASY OR DIFFICULT ABATEMENT? Difficult

ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS:

*** *The Cessation Order was terminated on June 27, 2007. The abatement was considered to be difficult because it required the submission of an amended NOI and bond. It required an extended period of time to complete the abatement. In fact a failure to abate cessation order was issued because the Operator failed to meet the abatement requirements. No good faith points are awarded.*

V. ASSESSMENT SUMMARY (R647-7-103.3)

CESSATION ORDER # MC-07-03-02

I.	TOTAL HISTORY POINTS	<u>10</u>
II.	TOTAL SERIOUSNESS POINTS	<u>14</u>
III.	TOTAL NEGLIGENCE POINTS	<u>15</u>
IV.	TOTAL GOOD FAITH POINTS	<u>-</u>
	TOTAL ASSESSED POINTS	<u>39</u>

TOTAL ASSESSED FINE \$ 2,090



JON M. HUNTSMAN, JR.
Governor

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Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil Gas and Mining

JOHN R. BAZA
Division Director

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TERMINATION of Cessation Order MC2007-03-02-01

To the following Permittee or Operator:

Name: Rock & Stone LLC (cessation order issued to Rock-It Stone Works)

Mailing Address: P. O. Box 1947, Park City, UT 84060

Mine Name: Strawberry River Quarry Permit Number: S0130008

Utah Mined Land Reclamation Act, Section 40-8-1 et. seq., *Utah Code Annotated (1953)*:

Cessation Order No: MC2007-03-02-01 dated April 18, 20 07

Part 1 of 1 is ☐ vacated ☒ terminated because: the abatement requirements were completed effective June 27, 2007.

Part of is ☐ vacated ☐ terminated because:

Date of service/mailling:

Time of service/mailling ☒ a.m. ☒ p.m.

Cliff Read
Permittee or Operator Representative

Manager
Title

Signature

Paul B. Baker
Division of Oil Gas & Mining Representative

Reclamation Biologist
Title

Signature

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